

GREENBERG TRAURIG, LLP
ATTORNEYS AT LAW
SUITE 700
2375 EAST CAMELBACK ROAD
PHOENIX, ARIZONA 85016
(602) 445-8000

FILED	LEBBER
RECEIVED	COPY
AUG 16 2011	
CLERK U S DISTRICT COURT	
DISTRICT OF ARIZONA	
BY _____	S DEPUTY

David D. Cleary, 011806
Peter W. Sorensen, 007506
Attorneys for Petitioner W. A. Brandt

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

NO. 86-CR-00081-~~PHX~~-RCB

Plaintiff.

MOTION TO COMPEL

Sheldon Player

Defendant.

William A. Brandt, Jr. (“Brandt”), not individually but solely in his capacity as the Plan Administrator of Equipment Acquisition Resources, Inc. (“EAR”), by his attorneys, David D. Cleary and Peter W. Sorensen of Greenberg Traurig LLP move to compel the Clerk of the United States District Court for the District of Arizona to disclose the recipients of the funds from a June 6, 2008 restitution payment paid by EAR in the amount of \$462,265.99. In support of this motion (the “Motion”), Brandt states as follows.

1. Defendant Sheldon Player ("Player") pled guilty to two counts of aiding and abetting fraud and one count of mail fraud in this case. In connection with that guilty plea, a judgment order (the "Judgment") was entered against Player on December 21, 1988. A copy of the Judgment is attached as Exhibit A.

1 2. Pursuant to the Judgment, and in connection with his guilty plea to Count II,
2 Player was required to make restitution to the U.S. Attorney General “for collection and
3 disbursement to Greyhound Financial Corporation” in the amount of five hundred thousand
4 dollars (\$500,000.00). Exhibit A.

5 3. Brandt understands that Player was incarcerated in a federal penitentiary
6 following the entry of the Judgment.

7 4. After his release from prison, Player founded EAR, an equipment leasing and
8 refurbishment company, and served as an officer and shareholder of the company. EAR was
9 based in Palatine, Illinois.

10 5. On June 6, 2008, Jackson State Bank & Trust of Jackson, Wyoming issued a
11 cashier’s check (the “Check”) at Player’s direction using EAR funds to “US District Court” in
12 the amount of \$465,265.99. A copy of the Check is attached as Exhibit B. The Check used the
13 EAR funds to pay Player’s personal restitution obligation, as noted by the handwritten case
14 number on the bottom of the Check.

15 6. On October 9, 2009, Brandt was appointed the Chief Restructuring Officer of
16 EAR after the creditors of EAR were made aware of financial irregularities at the company.

17 7. On October 23, 2009, EAR filed a bankruptcy petition in the United States
18 Bankruptcy Court for the Northern District of Illinois (the “Bankruptcy Court”) pursuant to
19 Chapter 11 of title 11 of the United States Code. Brandt authorized the filing of the petition.

20 8. On July 15, 2010, the Bankruptcy Court entered the Order Confirming Debtor’s
21 Second Amended Plan of Liquidation, which named Brandt as the Plan Administrator of EAR.
22 In that capacity, Brandt and his counsel and other professionals have been investigating
23 potential assets of the bankruptcy estate, including potential litigation recoveries.

1 9. In the course of the investigation, representatives of Brandt identified the Check.
2
3 Brandt believes that the recipient(s) of the funds from the Check could possibly have received a
4 fraudulent transfer pursuant to 11 U.S.C. § 548. Brandt thus needs the identity of the
5 recipient(s) of the funds from the Check as part of his due diligence in his capacity as the EAR
6 Plan Administrator.

7 10. Following the identification of the Check, George P. Apostolides, counsel for
8 Brandt, contacted the office of the Clerk of the United States District Court for the District of
9 Arizona (the "Clerk's Office") regarding the Check. Cindy Duca of the Clerk's Office advised
10 counsel that after that office receives restitution payments, it pays them to the party identified as
11 being entitled to restitution.

12 11. Apostolides then investigated Greyhound Financial Corporation ("Greyhound"),
13 the party to which Player's restitution payments were to be disbursed pursuant to the Judgment.
14 Counsel learned that Greyhound changed its name to Finova Capital Corporation ("Finova")
15 some time after 1988, and also learned that in 2001 Finova and other associated entities filed for
16 bankruptcy in the United States Bankruptcy Court for the District of Delaware, case nos. 01-
17 697 through 01-705 (jointly administered).
18

19 12. Due to the Finova bankruptcy, it is not clear where the proceeds of the Check
20 were delivered.

21 13. Apostolides then spoke to Duca again. Duca advised him that the Clerk's Office
22 knows how the Check proceeds were disbursed, but could not disclose that without a court
23 order compelling the Clerk's Office to make that disclosure. Duca also indicated that she
24 would handle the filing of the motion to compel, because the age of this case precludes filing
25 through the CM/ECF system.
26

LAW OFFICES
GREENBERG TRAURIG
2375 EAST CAMELBACK ROAD, SUITE 700
PHOENIX, ARIZONA 85016
(602) 445-8000

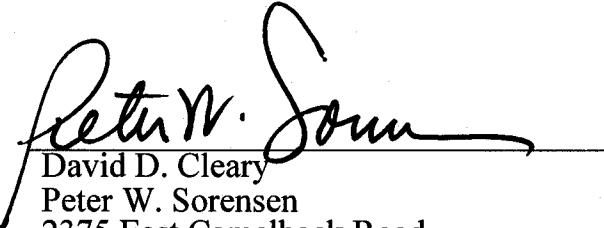
1 14. In order for Brandt, his counsel, and other professionals employed to determine
2 whether there are assets available to the creditors of EAR, Brandt needs the identity of the
3 recipient(s) of the funds from the Check, and needs a court order compelling the Clerk's Office
4 to make that disclosure.

5 WHEREFORE, William A. Brandt, Jr., not individually but solely in his capacity as the
6 Plan Administrator for Equipment Acquisition Resources, Inc., requests an Order compelling
7 the Clerk of the United States District Court for the District of Arizona to disclose the
8 recipient(s) of the funds from the June 6, 2008 check in the amount of \$462,265.99 paid by
9 EAR to the Clerk of the United States District Court for the District of Arizona as restitution in
10 this matter.

12 RESPECTFULLY SUBMITTED this 16th day of August, 2010.

13 GREENBERG TRAURIG, LLP

15 16 By:

17 
18 David D. Cleary
Peter W. Sorensen
2375 East Camelback Road
Suite 700
19 Phoenix, Arizona 85016
20 Attorneys for Petitioner W. A. Brandt

21
22
23
24
25
26

EXHIBIT A

grawuster

United States District Court

RECEIVED
DISTRICT OF Arizona

DEC 21 2 35 PM '88

UNITED STATES OF AMERICA

U.S. ATTORNEY
PHOENIX

V.

JUDGMENT IN A CRIMINAL CASE

SHELDON PLAYER

(SSN)

Mesa, AZ 85203

Case Number: CR 87-81-01-PHX-RCB

(Name and Address of Defendant)

Stephen R. McCaughey (ret'd)

Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:

guilty nolo contendere] as to count(s) I, II and III of the Information. X and
 not guilty as to count(s)

CERTIFIED TO BE A TRUE COPY.
DATED: 12-21-88

THERE WAS A:

[finding verdict] of guilty as to count(s)RICHARD H. WEARE, CLERK
U. S. DISTRICT COURT

THERE WAS A:

[finding verdict] of not guilty as to count(s)
 judgment of acquittal as to count(s)BY: *B. Lindberg*
DEPUTY CLERK

The defendant is acquitted and discharged as to this/these count(s).

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF: Title 18, United States Code, Sections 2314 and 2 - Interstate Transportation of Money taken by Fraud, Aid and Abet as charged in Counts I and II of the Information; Title 18, United States Code, Section 2341 - Mail Fraud - as charged in Count III of the Information.

COUNT I - IT IS ADJUDGED that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS to become eligible for parole pursuant to Title 18, United States Code, Section 4205(b)(2).

FURTHER ORDERED that the defendant shall pay a fine in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000).

COUNT III - IT IS ADJUDGED that the defendant is committed to the custody of the Attorney General or his authorized representative for a period of FIVE (5) YEARS; sentence to run concurrent with the sentence imposed in Count I.

COUNT II - IT IS ADJUDGED that imposition of sentence is suspended and the defendant is placed on probation for a period of FIVE (5) YEARS under the standard terms and conditions of probation and the following special terms of probation: That he comply with all rules and regulations of the probation office and any additional reasonable terms and conditions that may be imposed by that office; That he make restitution payable to the Attorney General for collection and disbursement to Greyhound Financial Corporation in the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) in amounts to be determined by the Court.

FURTHER ORDERED that defendant may have until 12:00 noon, Wednesday, February 1, 1989 to self-surrender to the United States Marshal, Phoenix, Arizona or to the designated facility by that time and date.

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

AO 245 (Reverse)

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$150.00 pursuant to Title 18, U.S.C. Section 3613 for count(s) I, II and III.

~~ask for warrant~~

IT IS FURTHER ORDERED THAT counts _____ are DISMISSED on the motion of the United States.

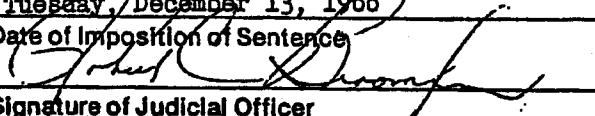
IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

The Court orders commitment to the custody of the Attorney General and recommends:

Tuesday, December 13, 1988

Date of Imposition of Sentence


Signature of Judicial Officer

ROBERT C. BROOMEFIELD, UNITED STATES DISTRICT

Name and Title of Judicial Officer COURT JUDGE

December 20, 1988

Date

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____
Date _____

_____, the institution designated by the Attorney General, with a certified copy of this Judgment in a Criminal Case.

United States Marshal

By _____
Deputy Marshal

EXHIBIT B

Date: April 1, 2011

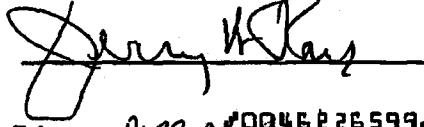
Wells Fargo PhotoCopy
Request

Page 1 of 1

Reference: 1000136065772:1000136065772:1000136053771

214627

END Security features included. Details on back.

 Jackson State Bank & Trust <small>P.O. Box 1700 Jackson, Wyoming 83001 (307) 733-3270</small>	
REMITTER:	SHELDON G PLAYER, PRESIDENT EQUIPMENT ACQUISITION RESOURCES INC
DATE 6/06/08	
PAY TO THE ORDER OF	***US DISTRICT COURT***
EXACTLY **462,265 AND 99/100 DOLLARS	
FOUR HUNDRED SIXTY-TWO THOUSAND TWO HUNDRED SIXTY-FIVE DOLLARS AND 99/100	
CASHIER'S CHECK	
THE PURCHASE OF AN INDEMNITY BOND WILL BE REQUIRED BEFORE ANY CASHIER'S CHECK OF THIS BANK WILL BE REPLACED OR REFUNDED IN THE EVENT IT IS LOST, MISPLACED OR STOLEN.	
CASE No. CR-87-8101 PHX USA No. 1989A (1199/001 #0000214627# 010230120910 00100 9#	
AUTHORIZED SIGNATURE	
 214627-000462265999	

ENDORSE HERE

 BANK OF AMERICA 1221 17th Street, Suite 1000 Denver, CO 80202-3277 (303) 893-1000	<input type="checkbox"/> Bank of America <input type="checkbox"/> National Trust and Savings Association <input type="checkbox"/> For Deposit Only <input type="checkbox"/> Treasury General Account-CA <input type="checkbox"/> US District Court-Phoenix, AZ <input type="checkbox"/> ALC #4808-02 <input type="checkbox"/> 12330-25150 CA
--	--

0061 73176

3150045377

R/T Number 10230109
Sequence Number 7137032090
Account Number 1173014588

Processing Date 20080611
Amount 462266.00
Check Number 214627